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Good Afternoon Senator Lesser, Representative Wood and members of the Insurance and Real Estate Committee. I would like to express my support for a number of bills on the agenda today:

SB 415, AN ACT CONCERNING STEP THERAPY, ADVERSE DETERMINATION AND UTILIZATION REVIEWS

SB 416, AN ACT PROMOTING COMPETITION IN CONTRACTS BETWEEN HEALTH CARRIERS AND HEALTH CARE PROVIDERS.

HB 5449, AN ACT CONCERNING CERTIFICATES OF NEED

HB 5410, AN ACT CONCERNING HIGH DEDUCTIBLE HEALTH PLANS.

HB 5447, AN ACT CONCERNING PRIOR AUTHORIZATION FOR HEALTH CARE PROVIDER SERVICES.

SB 410, AN ACT CONCERNING PHARMACY BENEFIT MANAGERS AND SPREAD PRICING

SB 415, AN ACT CONCERNING STEP THERAPY, ADVERSE DETERMINATION AND UTILIZATION REVIEWS, would provide a number of innovative protections for

patients. First, it would create a presumption that treatment that is ordered by a physician is medically necessary treatment. This would allow physicians to practice medicine and limit the ability of the health insurers to interfere with patient treatment by making medical decisions which they are not qualified to make.

Generally in law, the burden of proof in any case is placed on the party who has the relevant information and knowledge. SB 415 would bring appeals of adverse determinations in line with most areas of the law. Here, the insurer is the only party with knowledge as to why a claim was denied. In appeals of adverse determinations, neither the patient nor the provider know why the payer declined to cover a service.

Despite this reality, under the current framework the burden of proof in these appeals is on the patient and the provider. In fact prior to PA 12-102 the patient and provider didn't even have the right to access the record that the insurer used to make the decision. In addition, an insurer is not licensed to practice medicine and its judgment as to what is medically necessary for a patient should hold far less weight than that of the treating physician. The insurer could still, of course, deny claims under this framework; it would simply have to prove that the treatment was not medically necessary. In addition, if an insurer has concerns about the treatment practices of an in-network provider, that concern should be addressed with the provider; the patient should not be used as a pawn in these disputes.

SB 415 would also strengthen patient protections vis a vis insurers use of step therapy. While there are legitimate uses of step therapy, too often it is implemented in a manner that interferes with patient care and leads to insurers preventing physicians from providing the best care for patients. I am pleased that protections in the bill this year

apply to behavioral health as well as chronic diseases. In 2014 Public Act 14-118 AN ACT CONCERNING REQUIREMENTS FOR INSURERS' USE OF STEP THERAPY created certain patient protections regarding insurance carriers' use of step therapy. However, patients and providers continued to have situations in which the carriers' step therapy policies prevent the patients from receiving the treatment that their health care providers have decided is the most appropriate. In some cases this has delayed effective treatment which can leave patients with diminished health outcomes. In 2017 PA 17-228, AN ACT CONCERNING STEP THERAPY FOR PRESCRIPTION DRUGS PRESCRIBED TO TREAT STAGE IV METASTATIC CANCER, recognized these continued patient struggles and further regulated the use of step therapy in certain cancers. However, the use of step therapy continues to be particularly problematic for chronic disease, behavioral health and cancer patients. SB 415 would ensure that the physician is able to provide the best treatment for patients.

In addition, SB 415 would create a more stringent definition of "clinical peer" in the appeal process for adverse determinations (including in the peer to peer conference that the health carrier is required to offer to the treating physician upon the initial adverse determination). Requiring that the clinical peers used to evaluate adverse determination reviews be certified specialists in the same subspecialty would result in more accurate and appropriate determinations. This legislation also would require that the peer that is provided for the peer to peer conference have the authority to overturn the adverse determination. This would benefit all parties involved and make our healthcare system more effective.

Passing SB 415 would provide much needed and sensible reforms to our healthcare system.

SB 416, AN ACT PROMOTING COMPETITION IN CONTRACTS BETWEEN HEALTH CARRIERS AND HEALTH CARE PROVIDERS, seeks to address some of the effects of healthcare consolidation. These are issues that I have worked on for a number of years along with Former State Senator Len Fasano. SB 416 would prevent certain anticompetitive terms in hospital contracts with insurers such as "all of nothing clauses" which require that insurers must either have all the hospitals in a health system in network or none. The bill also addresses tiering and steering. I would encourage you to look at the language in SB 807 from 2015, AN ACT CONCERNING FAIRNESS AND EFFICIENCY IN HEALTH INSURANCE CONTRACTING[1], which has some language to address these issues. In addition, PA 15-146[2] includes some language encouraging the offering of tiered networks as a choice.as well as some protections regarding referrals. I would urge you to include language that makes it clear that tiered networks must comply with network adequacy , essential health benefits and all state and federal mandates.

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[1] https://cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which_year=2015&bill_num=807

[2] section 16(24) of PA 15-146 regarding tiered networks https://cga.ct.gov/2015/ACT/PA/2015PA-00146-R00SB-00811-PA.htm . There is additional language in section 18 and 19 of the uncalled amendment https://cga.ct.gov/2015/lcoamd/2015LCO08003-R00-AMD.htm

HB 5449, AN ACT CONCERNING CERTIFICATES OF NEED, is also designed to address healthcare consolidation. It would update some of the provisions of PA 15-146 to address recent changes in our healthcare system. The bill would restrict unrestrained expansion by not allowing Connecticut Health and Education Facilities Authority (CHEFA) to issue bonds for a project until the entity has received a Certificate of Need. It would also increase the application cost for a CON. I support what is in this bill but I also believe we need to do more. We should allow the Office of Health Strategy to use stronger penalties when health systems flout the law by terminating services first and asking permission later (as has happened with Obstetrics at certain hospitals). I look forward to working with the Committee on these issues.

HB 5410, AN ACT CONCERNING HIGH DEDUCTIBLE HEALTH PLANS, would provide some protections for people with high deductible health plans. It would limit deductibles of certain health insurance policies, require certain health savings account disclosures; and require certain high deductible health plans to apply annual deductibles on a calendar year basis. This would prevent patients who have to change plans mid-year from having to meet the deductible twice.

HB 5447, AN ACT CONCERNING PRIOR AUTHORIZATION FOR HEALTH CARE PROVIDER SERVICES, as currently drafted is a study bill. I would encourage the committee to add some protections for patients and providers that would increase equity and transparency in the prior authorization process.

SB 410, AN ACT CONCERNING PHARMACY BENEFIT MANAGERS AND SPREAD PRICING, is also a study bill as drafted. I would encourage the committee to move toward the process of regulating the use of spread pricing. Spread pricing is the PBM practice of charging payers significantly more than they pay the pharmacy for a medication and then the PBM keeps the "spread" or difference as profit. In some cases the reimbursement rate to the pharmacy is so low that the pharmacy makes no profit on the transaction. The amount of the spread that a PBM can retain should be regulated and transparent.[3] One proposal could be to require that PBMs can retain only a "reasonable" administrative fee.

Thank you for hearing these important bills.

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[3] https://www.kff.org/medicaid/issue-brief/costs-and-savings-under-federal-policy-approaches-to-address-medicaid-prescription-drug-spending/#:~:text=Spread%20pricing%20refers%20to%20the,a%20%E2%80%9Creasonable%E2%80%9D%20administrative%20fee.